

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Date:  
October 22, 2019

LEGEND

Trust =

Debtor =

Date1 =

Date2 =

Date3 =

Date4 =

Date5 =

Date6 =

Date7 =

Date8 =

Dear :

This responds to a letter dated May 20, 2019, submitted on behalf of Trust, requesting a ruling under § 301.7701-4(d) of the Procedure and Administration Regulations.

## FACTS

The information submitted states that Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court on Date1. On Date2, the Bankruptcy Court approved the Fourth Amended Plan of Liquidation with an effective date of Date3. On Date3, Trust was established as part of the plan with an initial term ending on Date4. The Bankruptcy Court, however, subsequently extended the term of Trust to Date 5, then to Date 6 and then to Date 7. Because of unresolved legal claims, Trustee intends to motion the Bankruptcy Court to extend the termination date of Trust to Date8.

Pursuant to the provisions of the trust agreement, Trust was created for the purpose of liquidating the assets of Trust, with no objective to continue or engage in the conduct of a trade or business. Trust is not permitted to receive or retain cash in excess of a reasonable amount to meet claims and contingent liabilities (including disputed claims) or to maintain the value of the assets during liquidation. Cash not available for distribution and cash pending distribution is to be held in demand and time deposits, such as short term certificates of deposit, in banks or other savings institutions, or other temporary, liquid assets such as Treasury bills. Trust is required, under the terms of Trust, to distribute to the beneficiaries of Trust at least annually its net income and all net proceeds from the sale of Trust's assets, except that Trust may retain an amount of net proceeds or net income reasonably necessary to maintain the value of the property or to meet claims or contingent liabilities.

Trust provides that the beneficiaries of Trust will be treated as the grantors and deemed owners of Trust. It further provides that the parties will value all assets transferred to Trust consistently and use such values for all federal income tax purposes.

Trust provides that the trustee of Trust shall file tax returns as a grantor trust pursuant to § 1.671-4(a) of the Income Tax Regulations.

Trust, consistent with the requirements set out in Rev. Proc. 94-45, 1994-2 C.B. 684, provides that the transfer of Trust assets to Trust will be treated for all federal tax purposes as a deemed transfer by Debtor to the beneficiaries followed by a deemed transfer by the beneficiaries to Trust.

Trust further represents that, from its establishment, Trust has been formed and operated consistent with the conditions set forth in Rev. Proc. 94-45. As of the date of this request, Trust has distributed amounts in Trust to its beneficiaries. Trust represents that certain developments, generally beyond the control of the trustee of Trust, have occurred that require additional time and effort to facilitate the recovery of certain remaining trust assets and to complete the liquidation of the Trust.

## LAW AND ANALYSIS

Section 301.7701-4(d) provides that certain organizations which are commonly known as liquidating trusts are treated as trusts for purposes of the Internal Revenue Code. An organization will be considered a liquidating trust if it is organized for the primary purpose of liquidating and distributing the assets transferred to it, and if its activities are all reasonably necessary to, and consistent with, the accomplishment of that purpose. A liquidating trust is treated as a trust for purposes of the Code if it is formed with the objective of liquidating particular assets and not as an organization having as its purposes the carrying of a profit-making business which normally would be conducted through business organizations classified as corporations or partnerships. However, if the liquidation is unreasonably prolonged or if the liquidation purpose becomes so obscure by business activities that the declared purpose of liquidation can be said to be lost or abandoned, the status of the organization will no longer be that of a liquidating trust.

Rev. Proc. 94-45 provides the conditions under which the Service will consider issuing advance rulings classifying certain trusts as liquidating trusts under § 301.7701-4(d).

Section 3.06 of Rev. Proc. 94-45 provides that the trust instrument must contain a fixed or determinable termination date that is generally not more than five years from the date of creation of the trust and that is reasonable based on all the facts and circumstances. If warranted by the facts and circumstances, provided for in the plan and trust instrument, and subject to the approval of the Bankruptcy Court with jurisdiction over the case upon a finding that the extension is necessary to the liquidating purpose of the trust, the term of the trust may be extended for a finite term based on its particular facts and circumstances. The trust instrument must require that each extension be approved by the court within 6 months of the beginning of the extended term.

## CONCLUSIONS

Based on the information submitted and the representations made, we conclude that the conditions of Rev. Proc. 94-45 have been satisfied. Accordingly, based on the representations made and the information submitted, we rule that Trust is classified as a liquidating trust under 301.7701-4(d) for income tax purposes. Additionally, based on the representations made and the information submitted, we also rule that extension of Trust's term to Date8 will not adversely affect the classification of Trust as a liquidating trust under § 301.7701-4(d).

Except as expressly set forth above, no opinion is expressed or implied concerning the federal income tax consequences of the facts described above under any other provision of the Code.

This ruling is directed only to the taxpayer requesting it. According to § 6110(k)(3) of the Code, this ruling may not be used or cited as precedent.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Under a power of attorney on file with this office, we are sending a copy of this letter to X's authorized representatives.

Sincerely,

Associate Chief Counsel  
(Passthroughs & Special Industries)

By: \_\_\_\_\_  
Richard T. Probst  
Senior Technician Reviewer, Branch 3  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures: Copy of this letter  
Copy of this letter for § 6110 purposes

cc: